

Exhibit A

E-FILED

8/27/2018 4:05 PM

Clerk of Court

Superior Court of CA,

County of Santa Clara

18CV333609

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9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF SANTA CLARA

11 DANIEL CHRISTOPHER DOYLE and
KRISTIE LYNN DOYLE,

12 Plaintiffs,

13 v.

14 IMERYS TALC AMERICA, INC., formerly
15 known as LUZENAC AMERICA, INC., and
formerly known as CYPRUS TALC
16 CORPORATION (sued individually and as
successor-in-interest to CYPRUS MINES
17 CORPORATION, CYPRUS INDUSTRIAL
MINERALS CORPORATION, and CYPRUS
18 WINDSOR MINERALS CORPORATION);

19 JOHNSON & JOHNSON;

20 JOHNSON & JOHNSON CONSUMER, INC.
(sued individually and as successor-in-interest to
21 JOHNSON & JOHNSON CONSUMER
COMPANIES, INC.);

22 CYPRUS MINES CORPORATION;

23 IMERYS TALC VERMONT, INC.; and

24 FIRST DOE through FIFTIETH DOE,

25 Defendants.
26
27
28

Case No. **18CV333609**

**COMPLAINT FOR PERSONAL
INJURIES AND LOSS OF CONSORTIUM**

DEMAND FOR JURY TRIAL

GENERAL BACKGROUND AND OTHER ALLEGATIONS

I.

The Plaintiffs: Daniel Christopher Doyle is the physically injured Plaintiff. His mesothelioma was caused by asbestos exposures for which Defendants bear responsibility. Kristie Lynn Doyle is Mr. Doyle's wife.

II.

The Defendants: All Defendants are listed in the case caption. The true names of the DOE Defendants are unknown to Plaintiffs. Each Defendant was the agent, employee, or joint venturer of its co-defendants, and was acting in the full course and scope of the agency, employment, or joint venture.

III.

Alternate Entities: All Defendants are individually liable for their own defective products and wrongful conduct; and some Defendants are liable for the defective products and wrongful conduct of their alternate entities. Each such Defendant is liable for the torts of each of its alternate entities based on the following:

- There were express or implied agreements between the companies to transfer and assume the liabilities;
- The transactions between the companies amounted to a consolidation or merger;
- The purchasing company is a mere continuation of the seller;
- The transfer of assets to the purchasing company was for the fraudulent purpose of escaping liability for the seller's debts;
- Strict products liability was transferred because (i) there was a virtual destruction of Plaintiff's remedies against the original manufacturer caused by the successor's acquisition of the business, (ii) the successor has the ability to assume the original manufacturer's risk-spreading role, and (iii) it is fair to require the successor to assume responsibility for defective products that was a burden necessarily attached to the original manufacturer's good will being enjoyed by the successor in the continued operation of the business; and
- The companies are alter egos because (i) there is such a unity of interest, ownership, and business operations between the companies that their separate personalities do not in reality exist, and (ii) there would be an inequitable result if the torts in question were treated as those of one company alone.

The identities of the Defendants and their alternate entities are as follows:

Defendant	Alternate Entity
JOHNSON & JOHNSON CONSUMER, INC.	JOHNSON & JOHNSON CONSUMER COMPANIES, INC.
IMERYS TALC AMERICA, INC.	LUZENAC AMERICA, INC. CYPRUS TALC CORPORATION CYPRUS MINES CORPORATION CYPRUS INDUSTRIAL MINERALS CORPORATION CYPRUS WINDSOR MINERALS CORPORATION

IV.

The Products: The Defendants and/or their predecessors have for many years, manufactured, sold, distributed, designed, formulated, developed standards for, prepared, processed, assembled, tested, listed, certified, marketed, advertised, packaged and/or labeled, and/or otherwise placed into the stream of commerce, asbestos-containing products, including talc products.

V.

The Asbestos Exposures: At all times since his birth on November 29, 1970, Mr. Doyle was exposed to asbestos through his and his family members' personal, daily use of Johnson & Johnson's asbestos-containing talc powder products. Mr. Doyle used Johnson & Johnson asbestos-containing talc powder products in California, Florida, Ohio, and Pennsylvania. Mr. Doyle was exposed to Defendants' asbestos in California because Defendants (i) marketed and sold their asbestos-containing products in California, and (ii) engaged in asbestos-related conduct that occurred in California. Mr. Doyle also was exposed to Defendants' asbestos in other states because Defendants (i) marketed and sold their asbestos-containing products in those states, and (ii) engaged in asbestos-related conduct in those states.

VI.

Venue: Venue is proper in Santa Clara County because some of the Defendants reside in Santa Clara County. Specifically, the principal place of business of Defendant IMERYS TALC

1 AMERICA, INC. is in Santa Clara County.

2 **VII.**

3 **The Harm:** In June 2018, Mr. Doyle was diagnosed with epithelial/sarcomatoid
4 mesothelioma, an incurable and inevitably fatal cancer that stems from his exposures to asbestos.
5 The mesothelioma also has caused, and will cause, Mr. Doyle to experience physical pain, mental
6 suffering, loss of enjoyment of life, disfigurement, physical impairment, inconvenience, grief,
7 anxiety, humiliation, emotional distress, and other similar harm. The mesothelioma has caused
8 economic loss, including loss of income and loss of earning capacity. And the mesothelioma will
9 continue to inflict these harms on Mr. Doyle in the future, ceasing only when it causes his
10 untimely death.

11 Mr. Doyle's injuries have caused, and will cause, Mrs. Doyle to experience loss of
12 consortium. Mrs. Doyle's harm includes the loss of love, companionship, comfort, care,
13 assistance, protection, affection, society, moral support, sexual relations, and other similar harm.

14 Plaintiffs rely on the liability theories described below.

15 **FIRST CAUSE OF ACTION FOR STRICT PRODUCTS LIABILITY**

16 **I.**

17 **Design Defect:** Defendants, and DOE Defendants 1-50, have for many years,
18 manufactured, sold, distributed, designed, formulated, developed standards for, prepared,
19 processed, assembled, tested, listed, certified, marketed, advertised, packaged and/or labeled,
20 and/or otherwise placed into the stream of commerce, asbestos-containing talc powder products.
21 First, these Defendants' products were defective and unsafe for their intended purpose and
22 foreseeable use in that when used, handled, mixed, or otherwise disturbed, said products would
23 result in the release, and therefore inhalation of, hazardous and dangerous asbestos fibers by
24 exposed persons, including Mr. Doyle. Second, each product did not perform as safely as an
25 ordinary consumer would have expected it to perform when used or misused in an intended or
26 reasonably foreseeable way, because each product caused hazardous asbestos to become airborne.
27 Third, Mr. Doyle developed mesothelioma. Fourth, each product's failure to perform safely was a
28 substantial factor contributing to Mr. Doyle's risk of developing mesothelioma.

II.

Failure-to-Warn Defect: The Defendants, and DOE Defendants 1-50, are strictly liable for their products' failure-to-warn defects. First, these Defendants and/or their predecessors have for many years, manufactured, sold, distributed, designed, formulated, developed standards for, prepared, processed, assembled, tested, listed, certified, marketed, advertised, packaged and/or labeled, and/or otherwise placed into the stream of commerce, asbestos-containing talc powder products. Second, each product had potential risks that were known or knowable in light of the scientific and medical knowledge that was generally accepted in the scientific community at the time of design, manufacture, label, distribution, and sale. Third, the potential risks presented a substantial danger when each product was used or misused in an intended or reasonably foreseeable way, because each product caused hazardous asbestos to become airborne. Fourth, ordinary consumers would not have recognized the potential risks. Fifth, these Defendants failed to adequately warn or instruct of the potential risks. Sixth, Mr. Doyle developed mesothelioma. Seventh, the lack of sufficient warnings or instructions was a substantial factor contributing to Mr. Doyle's risk of developing mesothelioma.

III.

Knowledge of Asbestos Hazards: The following facts are illustrative, but not exhaustive, of the evolution of the knowledge of the health hazards of asbestos and what was known and knowable to Defendants. Health hazards from asbestos exposure were identified in the 1890s. During this time, the Lady Inspector of Factories in Great Britain noted that individuals working with asbestos were suffering various lung injuries.

Defendants since the early 1900s possessed medical and scientific data that raised concerns regarding the presence of asbestos in talcum powder and that demonstrated the existence of health hazards to those exposed to asbestos-containing talcum powder products. Talc is a hydrous magnesium silicate, an inorganic material that is mined from the earth. Talc is used in the manufacture goods, such as paper, plastic, paint and coatings, rubber, food, electric cable, ceramics, and cosmetics. In its loose form and as used in consumer powder products, talc is known as "talcum powder."

1 Geologists and mining companies, including Defendants, have long known that the
2 deposits in the earth that are associated with talc are also associated with the formation of
3 asbestos. Asbestos is a commercial and legal term, rather than a geological or scientific term,
4 referring to six now-regulated magnesium silicate minerals that occur in fibrous form, including
5 the serpentine mineral chrysotile, and the amphibole minerals actinolite, anthophyllite, tremolite,
6 amosite, and crocidolite. The United States Geological Survey on Commercial Talc production in
7 1965, as well as those dating back to the 1800s in the United States, note the presence of tremolite,
8 anthophyllite, and chrysotile commonly among those minerals found within talc deposits.

9 As early as the 1920s, the term “asbestosis” was used to describe pulmonary fibrosis
10 caused by asbestos exposure. Case reports in Great Britain and the United States detailed
11 asbestosis in various workers. By 1929, lawsuits for disability related to exposure to asbestos were
12 filed against Johns Manville.

13 In the late 1930s, case reports were published addressing the relationship between asbestos
14 and cancer. In 1931, the United Kingdom allowed workers to receive compensation for asbestosis.
15 In 1936, California’s Division of Industrial Safety issued Safety Orders establishing the standard
16 of care for work with asbestos. The same year, the State of Illinois enacted legislation recognizing
17 asbestosis as a compensable occupational disease under its Occupational Disease Act.

18 In March of 1933, Waldemar C. Dreesen of the United States Public Health Service
19 reported to the National Safety Council the results of a study conducted among tremolite, talc, and
20 slate workers. The study indicated that the talc was a hydrous calcium magnesium silicate, being
21 45 percent talc and 45 percent tremolite, and the National Safety Council stated, “[t]he results of
22 the study seemed to indicate a relationship between the amount of dust inhaled and the effect of
23 this dust on the lungs of the workers.” As early as 1934, the National Safety Council was
24 publishing information stating that “a cause of severe pulmonary injury is asbestos, a silicate of
25 magnesium.” In the September 1935 issue of National Safety News, an article entitled *No Halfway*
26 *Measures in Dust Control* by Arthur S. Johnson reported lowered lung capacity resulting from
27 “asbestosis” and “similar conditions” that developed “from exposure to excess of many mineral
28 dusts relatively low in free silica content.” The article further noted that claims for disabilities

1 from workers who alleged exposure to “clay, talc, emery, and carborundum dusts” had “claims
2 prosecuted successfully.” The article concluded that “[i]n the absence of adequate diagnoses,
3 occupational histories and a more satisfactory method of adjudicating claims than prosecution at
4 common law, we must conclude that it is necessary to find a practical method for controlling all
5 mineral dusts.”

6 By the 1940s, asbestos carcinogenicity was noted in reviews in fields of industrial
7 medicine, cancer research, and pneumoconiosis. In 1946, the American Conference of
8 Governmental Industrial Hygienists established a maximum allowable concentration for
9 occupational exposure.

10 During the 1940s and 1950s, asbestos hazards were discussed in popular magazines,
11 including Scientific American (January 1949) and Newsweek (May 15, 1950), as well as the
12 Encyclopedia Britannica (1952). On April 7, 1959, the Los Angeles Times and Wall Street Journal
13 reported that California health officials did additional research linking asbestos with cancer.
14 Following a number of subsequent reports in the New York Times, Paul Brodeur published a
15 series of articles in the New Yorker.

16 In addition, beginning in the 1940s and 1950s, it was recognized that individuals who
17 worked with asbestos materials, as well as those who did not work directly with asbestos products
18 but only had relatively brief or intermittent exposures to asbestos products, could develop fatal
19 asbestos diseases.

20 In 1955, Richard Doll published a study linking asbestos to lung cancer.

21 In 1960, Chris Wagner published a study linking asbestos to mesothelioma.

22 In the early 1960s, Dr. Irving Selikoff engaged in studies of groups of asbestos workers.
23 By 1965, he had conducted various studies, published several articles, conducted special scientific
24 symposia, been interviewed by the New York Times, and organized the international conference
25 on the “Biological Effects of Asbestos” under the auspices of the renowned New York Academy
26 of Sciences. The results of these presentations were published in Volume 132 of the Annals of the
27 New York Academy of Sciences published in 1965.

28 In 1968, a study presented at the American Industrial Hygiene Conference and published

1 in the American Industrial Hygiene Association Journal concluded that “[a]ll of the 22 talcum
2 products analyzed have a ... fiber content ... averaging 19%. The fibrous material was
3 predominantly talc but contained minor amounts of tremolite, anthophyllite, and chrysotile as
4 these are often present in fibrous talc mineral deposits ... Unknown significant amounts of such
5 materials in products that may be used without precautions may create an unsuspected problem.”
6 [Cralley, L.J., et al., *Fibrous and Mineral Content of Cosmetic Talcum Products*, 29 Am. Ind.
7 Hyg. Assoc. J. 350 (1968).]

8 In 1969, product-liability lawsuits were brought against asbestos manufacturers. Under the
9 Walsh Healy Act, federal contractors with contracts of more than \$10,000 were required to adhere
10 a workplace standard of no more than 12 fibers per cubic centimeter of air. In 1970, OSHA
11 established the first Federal guidelines for workplace asbestos exposure, which took effect in
12 1971. In 1972, the American Conference of Governmental Industrial Hygienists listed asbestos as
13 a carcinogen.

14 A 1976 follow-up study conducted by researchers at Mount Sinai Hospital in New York
15 concluded that “[t]he presence in these products of asbestiform anthophyllite and tremolite,
16 chrysotile, and quartz indicates the need for a regulatory standard for cosmetic talc...We also
17 recommend that evaluation be made to determine the possible health hazards associated with the
18 use of these products.” [Rohl, A.N., et al., *Consumer Talcums and Powders: Mineral and*
19 *Chemical Characterization*, 2 J. Toxicol. Environ. Health 255 (1976).] The results of the Mount
20 Sinai study were soon picked up and reported by both the New York Times and the Washington
21 Post that same year. The study and subsequent newspaper articles listed explicitly popular
22 consumer cosmetic talcum powders as containing high percentages of asbestos.

23 In the early 1970s, the U.S. Food and Drug Administration began an inquiry into whether
24 to regulate and require warnings on consumer talcum powder products. Defendants, who were part
25 of an exclusive lobbying and advocacy group representing companies engaged in the cosmetic
26 products industry, repeatedly conspired and worked in concert to block efforts to label and warn
27 consumers regarding the dangers associated with cosmetic talcum powder products.

28 Several reports, studies, and guidelines published as early as the 1930s, including

1 California's Dust, Fumes, Vapors, and Gases Safety Orders, all recognized that asbestos is a dust
2 which creates health hazards, and that certain precautions are required to mitigate human exposure
3 to dust. Such measures include, but are not limited to, using water to suppress the dust at its
4 source, as well as providing those who might be exposed to dust with adequate ventilation,
5 showers, and changing facilities. These same measures that were recommended to protect workers
6 from asbestosis in the 1930s would also have substantially reduced the risk that bystanders,
7 household members, and other persons would contract mesothelioma from inhaling asbestos-
8 containing dust that those who worked with and around asbestos and asbestos-containing products
9 carried into their households on their person and personal effects. Defendants, and each of them,
10 knew or should have known that anyone, including household members of those who used
11 asbestos-containing products were at risk of developing an asbestos-related disease after inhaling
12 dust from such asbestos-containing products.

13 All Defendants failed to place any warning on their talc and talcum powder products or ever
14 disclose the fact that these products contained asbestos at any point, up to and including present day,
15 despite the clear hazard and direct information that their products did contain asbestos.

16 **SECOND CAUSE OF ACTION FOR NEGLIGENCE**

17 **I.**

18 **General Negligence:** All Defendants, and DOE Defendants 1-50, are liable for their
19 general negligence. First, Defendants failed to use reasonable care to prevent harm to others,
20 because they caused hazardous asbestos to become airborne. Second, Defendants unreasonably
21 acted and failed to act. They acted in ways that a reasonably careful person would not do in the
22 same situation, and failed to act in ways that a reasonably careful person would do in the same
23 situation. Third, Mr. Doyle developed mesothelioma. Fourth, each Defendant's general negligence
24 was a substantial factor contributing to Mr. Doyle's risk of developing mesothelioma.

25 **II.**

26 **Negligent Design, Manufacture, Supply, Testing, Packaging, and Labeling of**
27 **Products:** The Defendants, and DOE Defendants 1-50, are liable for their negligent design,
28 manufacture, marketing, supply, testing, packaging, and labeling of asbestos-containing talc

1 powder products. First, these Defendants designed, manufactured, sold, distributed, formulated,
2 developed standards for, prepared, processed, assembled, tested, listed, certified, marketed,
3 advertised, packaged and/or labeled, and/or otherwise placed into the stream of commerce,
4 asbestos-containing talc powder products. Second, these Defendants were negligent in
5 manufacturing, selling, distributing, developing standards for, processing, assembling, testing,
6 certifying, marketing, advertising, packaging and/or labeling, and/or otherwise placing into the
7 stream of commerce, asbestos-containing talc powder products because they caused hazardous
8 asbestos to become airborne. They failed to use the amount of care that a reasonably careful
9 person would use in similar circumstances to avoid exposing others to a foreseeable risk of harm.
10 Third, Mr. Doyle developed mesothelioma. Fourth, each Defendant's negligence was a substantial
11 factor contributing to Mr. Doyle's risk of developing mesothelioma.

12 III.

13 **Negligent Failure to Warn about Products:** The Defendants, and DOE Defendants 1-50,
14 are liable for their negligent failure to warn about their products. First, these Defendants designed,
15 manufactured, marketed, distributed, packaged, labeled, and sold asbestos-containing talc powder
16 products. Second, these Defendants knew or reasonably should have known that each product was
17 dangerous or was likely to be dangerous when used or misused in a reasonably foreseeable
18 manner, because each product caused hazardous asbestos to become airborne. Third, these
19 Defendants knew or reasonably should have known that users would not realize the danger.
20 Fourth, these Defendants failed to adequately warn of the danger or instruct on the safe use of each
21 product. Fifth, a reasonably careful person under the same or similar circumstances would have
22 warned of the danger or instructed on the safe use of each product. Sixth, Mr. Doyle developed
23 mesothelioma. Seventh, each Defendant's negligent failure to warn or instruct was a substantial
24 factor contributing to Mr. Doyle's risk of developing mesothelioma.

25 IV.

26 **Negligent Failure to Recall and Retrofit Products:** The Defendants, and DOE
27 Defendants 1-50, are liable for their negligent failure to recall and retrofit their products. First,
28 these Defendants designed, manufactured, marketed, distributed, packaged, labeled, and sold

1 asbestos-containing talc powder products. Second, these Defendants knew or reasonably should
2 have known that each product was dangerous or was likely to be dangerous when used in a
3 reasonably foreseeable manner, because each product caused hazardous asbestos to become
4 airborne. Third, these Defendants became aware of this defect after each product was sold. Fourth,
5 these Defendants failed to recall and retrofit each product. Fifth, a reasonably careful person under
6 the same or similar circumstances would have recalled and retrofitted each product. Sixth,
7 Mr. Doyle developed mesothelioma. Seventh, each Defendant's negligent failure to recall and
8 retrofit each product was a substantial factor contributing to Mr. Doyle's risk of developing
9 mesothelioma.

10 **THIRD CAUSE OF ACTION FOR FRAUD**

11 **I.**

12 **Fraudulent Misrepresentation:** All Defendants, and DOE Defendants 1-50, are liable for
13 their fraudulent misrepresentations.

14 First, each of these Defendants, via its employees, agents, advertisements, or any other
15 authorized person or document, represented that certain facts were true when they were not. The
16 specific identities of these employees, agents, advertisements, or any other authorized person or
17 document are maintained in Defendants' records. Such records remain in the exclusive control of
18 Defendants pursuant to Defendants' respective document-retention policies. While Plaintiffs do
19 not currently know the specific advertisements or names of the employees, agents, or any other
20 authorized person who made the representations, they will have access to this information once
21 discovery has commenced and will be able to specifically name the advertisement as well as the
22 employee, agent, or any other authorized person.

23 Second, Defendants represented that the products they manufactured, supplied, or specified
24 for use were not hazardous to humans. These representations were made before and during the
25 years that Mr. Doyle purchased and was exposed to asbestos from Defendants' talc powder
26 products. Such representations were made either directly to Mr. Doyle, or to a third party
27 intending and reasonably expecting that the substances of these misrepresentations would be
28 repeated to Mr. Doyle.

1 Third, Defendants knew that the representations were false when they made them, or they
2 made the representations recklessly and without regard for their truth.

3 Fourth, Defendants intended that Mr. Doyle and/or the same class of persons as Mr. Doyle
4 rely on the representations or their substance.

5 Fifth, Mr. Doyle reasonably relied on Defendants' representations or the substance of these
6 representations.

7 Sixth, Mr. Doyle developed mesothelioma.

8 Seventh, Mr. Doyle's reliance on these representations was a substantial factor
9 contributing to Mr. Doyle's risk of developing mesothelioma.

10 **II.**

11 **Fraudulent Concealment (Nondisclosure):** All Defendants, and DOE Defendants 1-50,
12 are liable for their fraudulent concealment (nondisclosure).

13 First, each of these Defendants made affirmative statements that were so misleading (e.g.
14 misleading "half-truths") that they gave rise to a fraud cause of action even in the absence of a
15 specific relationship or transaction as between Defendants and Mr. Doyle. Specifically,
16 Defendants stated that their products could be used safely while concealing they were in fact lethal
17 because they contained and released asbestos fibers.

18 Second, Defendants (i) had exclusive knowledge of material facts not known to Mr. Doyle
19 (as set forth above), (ii) actively concealed these material facts from Mr. Doyle, (iii) made partial
20 representations but also suppressed material facts, as set forth above, and (iv) made factual
21 representations, but did not disclose facts which materially qualified those representations. Such
22 nondisclosures included Defendants representing their products as safe when used as intended and
23 as fit for the particular purpose for which they were marketed, while not disclosing the facts that
24 these products contained asbestos that would become airborne during the intended and foreseeable
25 use of the products, rendering them dangerous and unfit for their intended purpose.

26 Third, each Defendant entered into a relationship and/or a transaction with Mr. Doyle
27 sufficient to give rise to a duty to disclose. For example, Mr. Doyle used or otherwise encountered
28 Defendants' products that were purchased either directly from Defendants, Defendants' authorized

1 dealer or supplier, or any other entity upon which Defendants derived a direct monetary benefit
2 directly from Mr. Doyle's purchase and use of the products. As for another example, Defendants
3 directly advertised their products to those in California and elsewhere, as a symbol of freshness,
4 cleanliness, and purity. Defendants advertised and marketed this product as the beacon of
5 "freshness" and "comfort", eliminating friction on the skin, absorbing "excess wetness" helping
6 keep skin feeling dry and comfortable, and "clinically proven gentle and mild." The Defendants
7 compelled men and women through advertisements to dust themselves with this product to mask
8 odors. Defendants derived direct monetary benefit from these individuals' use of these products
9 because Mr. Doyle decided to use or purchase Defendants' products.

10 Fourth, Mr. Doyle did not know of the concealed facts.

11 Fifth, Defendants intended to deceive Mr. Doyle by concealing the facts, and/or by making
12 certain representations without disclosing additional facts that would have materially qualified
13 those representations.

14 Sixth, had the omitted information been disclosed, Mr. Doyle reasonably would have
15 behaved differently.

16 Seventh, Mr. Doyle developed mesothelioma.

17 Eighth, each Defendant's concealment was a substantial factor contributing to Mr. Doyle's
18 risk of developing mesothelioma.

19 **III.**

20 **Conspiracy to Commit Fraudulent Misrepresentation:** Plaintiffs hereby incorporate by
21 reference the allegations of Paragraph I of this Third Cause of Action as if fully stated herein.

22 All Defendants, and DOE Defendants 1-50, are liable for their conspiracy to commit
23 fraudulent misrepresentation. First, Defendants were aware that their conspirators, which included
24 all co-Defendants and others, planned to commit fraudulent misrepresentation against Mr. Doyle.
25 Second, Defendants agreed with their conspirators and intended that the fraudulent
26 misrepresentation be committed. Third, Mr. Doyle developed mesothelioma. Fourth, each
27 Defendant's participation in the conspiracy was a substantial factor contributing to Mr. Doyle's
28 risk of developing mesothelioma.

IV.

Conspiracy to Commit Fraudulent Concealment (Nondisclosure): Plaintiffs hereby incorporate by reference the allegations of Paragraph II of this Third Cause of Action as if fully stated herein.

All Defendants, and DOE Defendants 1-50, are liable for their conspiracy to commit fraudulent concealment. First, Defendants were aware that their conspirators, which included all co-Defendants and others, planned to commit fraudulent concealment against Mr. Doyle. Second, Defendants agreed with their conspirators and intended that the fraudulent concealment be committed. Third, Mr. Doyle developed mesothelioma. Fourth, each Defendant's participation in the conspiracy was a substantial factor contributing to Mr. Doyle's risk of developing mesothelioma.

V.

Knowledge of Hazards: At all times pertinent hereto, all Defendants, including DOE Defendants 1-50, owed Mr. Doyle a duty, as provided for in Civil Code sections 1708, 1709, and 1710, to abstain from injuring his person, property, or rights. In violation of that duty, these Defendants, and each of them, did do the acts and omissions, when a duty to act was imposed, as set forth herein, thereby proximately causing injury to Mr. Doyle. Such acts and omissions consisted of acts falling within Civil Code section 1710, and more specifically were (i) suggestions of fact which were not true and which the Defendants did not believe to be true, (ii) assertions of fact of that which was not true, which the Defendants had no reasonable ground for believing it to be true, and (iii) the suppression of facts when a duty existed to disclose it, all as are more fully set forth herein, and the violation of which as to any one such item gave rise to a cause of action for violation of Mr. Doyle's rights as provided for in the aforementioned code sections.

Since 1924, all of the Defendants have known and possessed of the true facts (consisting of medical and scientific data and other knowledge) which clearly indicated that the materials and products referred to herein were and are hazardous to the health and safety of Mr. Doyle, and others similarly situated. Defendants engaged in the following acts and omissions:

- (a) Did not label any of the aforementioned asbestos-containing materials and

1 products as to the hazards of such materials and products to the health and
2 safety of Mr. Doyle, and others in their position using these products when
3 the knowledge of such hazards was existing and known to Defendants, and
4 each of them, since 1924. By not labeling such materials as to their said
hazards, Defendants, and each of them, caused to be suggested as a fact to
Mr. Doyle that it was safe for his to use such materials, when in fact these
things were not true and Defendants did not believe them to be true.

5 (b) Suppressed information relating to the danger of using the aforementioned
6 materials by requesting the suppression of information to Mr. Doyle, and
7 the general public concerning the dangerous nature of the aforementioned
8 materials to all persons, including users, bystanders and household
9 members, by not allowing such information to be disseminated in a manner
10 which would give general notice to the public and knowledge of the
11 hazardous nature thereof when Defendants were bound to disclose such
12 information.

13 (c) Sold the aforementioned products and materials to the public, including
14 Mr. Doyle, and others in California and other states without advising them
15 of the dangers of use of such materials and to those persons' household
16 members, when Defendants knew of such dangers, as set forth herein and
17 above, and had a duty to disclose such dangers. Thus, Defendants caused to
18 be positively asserted to Mr. Doyle, and the public that which was not true
19 and which Defendants had no reasonable ground for believing it to be true,
20 in a manner not warranted by the information possessed by said Defendants,
21 and each of them, of that which was and is not true, to wit, that it was safe
22 for Mr. Doyle to use such materials and that it did not pose a risk of harm.

23 (d) Suppressed and continue to suppress from everyone, including Mr. Doyle,
24 medical, scientific data, and knowledge of the accurate results of studies
25 including, but not limited to, Waldemar C. Dreesen of the United States
26 Public Health Service's 1933 report to the National Safety Council the
27 results of a study conducted among tremolite, talc and slate workers. The
28 study indicated that the talc was a hydrous calcium magnesium silicate,
being 45 percent talc and 45 percent tremolite, and the National Safety
Council stated "The results of the study seemed to indicate a relationship
between the amount of dust inhaled and the effect of this dust on the lungs
of the workers." As early as 1934, the National Safety Council was
publishing information stating that "a cause of severe pulmonary injury is
asbestos, a silicate of magnesium." In the September 1935 issue of National
Safety News, an article entitled *No Halfway Measures in Dust Control* by
Arthur S. Johnson reported lowered lung capacity resulting from
"asbestosis" and "similar conditions" that developed "from exposure to
excess of many mineral dusts relatively low in free silica content." The
article further noted that claims for disabilities from workers who alleged
exposure to "clay, talc, emery, and carborundum dusts" had "claims
prosecuted successfully." The article concluded that "[i]n the absence of
adequate diagnoses, occupational histories and a more satisfactory method
of adjudicating claims than prosecution at common law, we must conclude
that it is necessary to find a practical method for controlling all mineral
dusts."

27 (e) Belonged to, participated in, and financially supported the Industrial
28 Hygiene Foundation, Asbestos Information Association, the Asbestos
Textile Institute (ATI), and other industry organizations, including the

1 Cosmetic, Toiletry, and Fragrance Association (now known as the Personal
2 Care Products Council), which actively promoted the suppression of
3 information of danger to users of the aforementioned products and materials
4 for and on behalf of Defendants, and each of them, thereby misleading
5 Mr. Doyle to their prejudice through the suggestions and deceptions set
6 forth above in this cause of action. ATI's Dust Control Committee, which
7 changed its name to the Air Hygiene Committee of ATI, was specifically
8 enjoined to study the subject of dust control; discussions in such committee
9 were held many times of (i) the dangers inherent in asbestos and the dangers
10 which arise from the lack of control of dust and (ii) the suppression of such
11 information from 1946 to a date unknown to plaintiff at this time.

12 (f) Knew and possessed medical and scientific information of the connection
13 between inhalation of asbestos fibers and asbestosis in 1930 with the study
14 of mine and mill workers at the Thetford asbestos mines in Quebec,
15 Canada, and the study of workers at Raybestos-Manhattan plants in
16 Manheim and Charleston, South Carolina. This information was
17 disseminated through the ATI and other industry organizations to all other
18 Defendants, and each of them, herein. Between 1942 and 1950, Defendants,
19 and each of them, knew and possessed medical and scientific information of
20 the connection between inhalation of asbestos fibers and cancer, which
21 information was disseminated through the ATI and other industry
22 organizations to all other Defendants herein. Thereby, Defendants
23 suggested as fact that which is not true and disseminated other facts likely
24 to and did mislead Mr. Doyle for want of communication of true facts,
25 which consisted of the previously described medical and scientific data and
26 other knowledge by not giving Mr. Doyle the true facts concerning such
27 knowledge of danger, when Defendants were bound to disclose it.

28 (g) Failed to warn Mr. Doyle and others similarly situated regarding the nature
of Defendants' talcum products. In 1968, a study presented at the American
Industrial Hygiene Conference and published in the American Industrial
Hygiene Association Journal concluded that "[a]ll of the 22 talcum products
analyzed have a...fiber content...averaging 19%. The fibrous material was
predominantly talc but contained minor amounts of tremolite, anthophyllite,
and chrysotile as these are often present in fibrous talc mineral
deposits...Unknown significant amounts of such materials in products that
may be used without precautions may create an unsuspected problem."
[Cralley, L.J., et al., *Fibrous and Mineral Content of Cosmetic Talcum
Products*, 29 Am. Ind. Hyg. Assoc. J. 350 (1968).] Defendants failed to
warn Mr. Doyle and others similarly situated that their talcum products are,
among other things, dangerous when breathed and causes pathological
effects without noticeable trauma, although Defendants possessed
knowledge that such material was dangerous and a threat to the health of
persons coming into contact therewith and under a duty to disclose it.

(h) Concealed from Mr. Doyle, and others similarly situated the true nature of
their exposure, the fact that Defendants knew that exposure to respirable
asbestos meant that Mr. Doyle would inhale this asbestos, significantly
increasing his risk of developing asbestosis, lung cancer, and mesothelioma;
that Mr. Doyle that had in fact been exposed to respirable asbestos; that the
materials to which Mr. Doyle was exposed would cause pathological effects
in the human body without noticeable or perceptible trauma to warn him of

injury; and Defendants engaged in these acts and omissions while under a duty to and bound to disclose this information.

(i) Failed to provide information to the public at large and buyers, users and physicians of Mr. Doyle for the purpose of conducting physical examinations of anyone whom came in contact with asbestos as to the true nature of the hazards of asbestos, in order for such physicians to diagnose, and treat individuals coming into contact with asbestos, in that the materials to which Mr. Doyle had been exposed would cause pathological effects without noticeable trauma, even though Defendants were under a duty to supply such information and such failure was and is likely to mislead persons including Mr. Doyle as to the dangers and risk of harm to which they were exposed.

(j) Affirmatively misrepresented that asbestos-containing products were safe to use and handle, when Defendants knew such statements were false when made, or made said false statements recklessly and without regard for whether the statements were true.

Each of the foregoing acts, suggestions, assertions, and forbearances to act when a duty existed to act, the said Defendants, and each of them, having such knowledge, knowing Mr. Doyle did not have such knowledge and would breathe such material innocently, was done falsely and fraudulently and with full intent to induce Mr. Doyle to work in a dangerous environment and to cause them to remain unaware of the true facts, all in violation of Civil Code section 1710.

BASIS FOR PUNITIVE DAMAGES

I.

Malice, Oppression, and Fraud: Plaintiffs hereby incorporate by reference the allegations of all causes of action as if fully stated herein. All Defendants, and DOE Defendants 1-50, are liable for punitive damages because they engaged in the conduct that caused Mr. Doyle's harm with malice, oppression, or fraud.

First, these Defendants committed malice in that they acted with intent to harm when they caused Mr. Doyle's asbestos exposures, and because their conduct was despicable and was done with a willful and knowing disregard of the rights and safety of others.

Second, these Defendants committed oppression in that their conduct was despicable and subjected Mr. Doyle to cruel and unjust hardship in knowing disregard of his rights.

Third, the Defendants committed fraud in that they intentionally and fraudulently

1 concealed and misrepresented material facts and did so intending to harm Mr. Doyle and with
2 reckless disregard for whether their fraud would harm Mr. Doyle.

3 These Defendants' conduct constituting malice, oppression, and fraud was committed by,
4 authorized by, and adopted by one or more officers, directors, and managing agents within the
5 corporate hierarchy of each Defendant, who acted on behalf of each Defendant.

6 **PRAYER FOR DAMAGES**

7 **I.**

8 Plaintiffs pray for judgment against all Defendants for:

- 9 1. All economic and non-economic compensatory damages in excess of \$25,000;
10 2. Punitive damages according to proof;
11 3. Pre- and post-judgment interest;
12 4. Costs of suit; and
13 5. Such other relief as is fair, just, and equitable.

14 **DEMAND FOR JURY TRIAL**

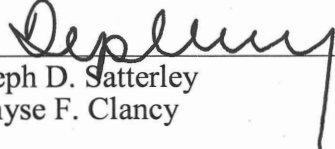
15 **I.**

16 Plaintiffs hereby demand a trial by jury on all issues so triable.

17
18 DATED: August 27, 2018

KAZAN, McCLAIN, SATTERLEY & GREENWOOD
A Professional Law Corporation

20
21 By:


22 Joseph D. Satterley
Denyse F. Clancy

23 Attorneys for Plaintiffs
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25
26
27
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Exhibit B



**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 3/11/2019 9:15 AM
Reviewed By: R. Walker
Case #18CV333609
Envelope: 2608647**

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8 Attorneys for Plaintiffs

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF SANTA CLARA

11 KRISTIE LYNN DOYLE (individually and as
successor-in-interest to decedent DANIEL
12 CHRISTOPHER DOYLE) and ETHAN
DOYLE (a minor, by his Guardian Ad Litem
13 JEFFERY DUANE YORS),

14 Plaintiffs,

15 v.

16 IMERYS TALC AMERICA, INC., formerly
known as LUZENAC AMERICA, INC., and
17 formerly known as CYPRUS TALC
CORPORATION (sued individually and as
18 successor-in-interest to CYPRUS MINES
CORPORATION, CYPRUS INDUSTRIAL
19 MINERALS CORPORATION, and CYPRUS
WINDSOR MINERALS CORPORATION);

20 JOHNSON & JOHNSON;

21 JOHNSON & JOHNSON CONSUMER, INC.
(sued individually and as successor-in-interest to
22 JOHNSON & JOHNSON CONSUMER
COMPANIES, INC.);

24 CYPRUS MINES CORPORATION;

25 IMERYS TALC VERMONT, INC.; and

26 FIRST DOE through FIFTIETH DOE,

27 Defendants.
28

Case No. 18CV333609

**FIRST AMENDED COMPLAINT FOR
PERSONAL INJURIES (SURVIVORSHIP)
AND WRONGFUL DEATH**

DEMAND FOR JURY TRIAL

Kazan, McClain, Satterley & Greenwood

A Professional Law Corporation

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GENERAL BACKGROUND AND OTHER ALLEGATIONS

I.

The Plaintiffs: Daniel Christopher Doyle died from mesothelioma on December 20, 2018. Mr. Doyle's mesothelioma was caused by exposures to asbestos, asbestiform fibers, and asbestiform talc for which Defendants bear responsibility. Plaintiff Kristie Lynn Doyle is the successor in interest to Mr. Doyle as defined under Code of Civil Procedure sections 377.11, 377.20, and 377.30. [See Exhibit A hereto.] Plaintiff Ethan Doyle is Mr. Doyle's minor son whose guardian ad litem is Jeffrey Duane Yors pursuant to this Court's order of January 25, 2019.

II.

The Defendants: All Defendants are listed in the case caption. The true names of the DOE Defendants are unknown to Plaintiffs. Each Defendant was the agent, employee, or joint venturer of its co-defendants, and was acting in the full course and scope of the agency, employment, or joint venture.

III.

Alternate Entities: All Defendants are individually liable for their own defective products and wrongful conduct; and some Defendants are liable for the defective products and wrongful conduct of their alternate entities. Each such Defendant is liable for the torts of each of its alternate entities based on the following:

- There were express or implied agreements between the companies to transfer and assume the liabilities;
- The transactions between the companies amounted to a consolidation or merger;
- The purchasing company is a mere continuation of the seller;
- The transfer of assets to the purchasing company was for the fraudulent purpose of escaping liability for the seller's debts;
- Strict products liability was transferred because (i) there was a virtual destruction of Plaintiffs' remedies against the original manufacturer caused by the successor's acquisition of the business, (ii) the successor has the ability to assume the original manufacturer's risk-spreading role, and (iii) it is fair to require the successor to assume responsibility for defective products that was a burden necessarily attached to the original manufacturer's good will being enjoyed by the successor in the continued operation of the business; and

- The companies are alter egos because (i) there is such a unity of interest, ownership, and business operations between the companies that their separate personalities do not in reality exist, and (ii) there would be an inequitable result if the torts in question were treated as those of one company alone.

The identities of the Defendants and their alternate entities are as follows:

Defendant	Alternate Entity
JOHNSON & JOHNSON CONSUMER, INC.	JOHNSON & JOHNSON CONSUMER COMPANIES, INC.
IMERYS TALC AMERICA, INC.	LUZENAC AMERICA, INC. CYPRUS TALC CORPORATION CYPRUS MINES CORPORATION CYPRUS INDUSTRIAL MINERALS CORPORATION CYPRUS WINDSOR MINERALS CORPORATION

IV.

The Products: The Defendants and/or their predecessors have for many years, manufactured, sold, distributed, designed, formulated, developed standards for, prepared, processed, assembled, tested, listed, certified, marketed, advertised, packaged and/or labeled, and/or otherwise placed into the stream of commerce talc products that contain asbestos, asbestiform fibers, and asbestiform talc.

V.

The Exposures: At all times since his birth on November 29, 1970, Mr. Doyle was exposed to asbestos, asbestiform fibers, and asbestiform talc through his and his family members' personal, daily use of Johnson & Johnson's talc powder products. Mr. Doyle used Johnson & Johnson talc power products in California, Florida, Ohio, Pennsylvania, and other states. Mr. Doyle was exposed to Defendants' asbestos, asbestiform fibers, and asbestiform talc in California because Defendants (i) marketed and sold their talc products in California, and (ii) engaged in asbestos-related conduct that occurred in California. Mr. Doyle also was exposed to Defendants' asbestos, asbestiform fibers, and asbestiform talc in other states because Defendants

(i) marketed and sold their talc products in those states, and (ii) engaged in asbestos-related conduct in those states.

VI.

Venue: Venue is proper in Santa Clara County because some of the Defendants reside in Santa Clara County. Specifically, the principal place of business of Defendant IMERYS TALC AMERICA, INC. is in Santa Clara County.

VII.

The Harm: In June 2018, Mr. Doyle was diagnosed with epithelial/sarcomatoid mesothelioma, an incurable and inevitably fatal cancer that stems from his exposures to asbestos, asbestiform fibers, and asbestiform talc. The mesothelioma caused Mr. Doyle to experience financial harm as well as physical pain, mental suffering, loss of enjoyment of life, disfigurement, physical impairment, inconvenience, grief, anxiety, humiliation, emotional distress, and other similar harm that occurred during the period from Mr. Doyle's mesothelioma diagnosis until his untimely death. Plaintiffs are not claiming any damages barred by Code of Civil Procedure section 377.34.

Mr. Doyle's injuries have caused Mrs. Doyle to experience loss of consortium. Her harm includes the loss of love, companionship, comfort, care, assistance, protection, affection, society, moral support, sexual relations, and other similar harm. Mrs. Doyle seeks compensation only for such harm that has occurred during the period from Mr. Doyle's mesothelioma diagnosis until his untimely death.

Mr. Doyle's injuries have caused Plaintiffs to suffer the loss of: (i) Mr. Doyle's love, companionship, comfort, care, assistance, protection, affection, society, moral support, training, and guidance; (ii) financial support that Mr. Doyle would have contributed to Plaintiffs during his life expectancy; (iii) gifts and benefits Plaintiffs would have expected to receive from Mr. Doyle; and (iv) the loss of household services that Mr. Doyle would have provided. Mr. Doyle's injuries have also caused Mrs. Doyle to suffer the loss of Mr. Doyle's sexual relationships. Plaintiffs also had to incur expenses for funeral and cremation.

Plaintiffs assert the liability theories described below and reserve the right to conform this

1 Complaint to proof later ascertained.

2 **FIRST CAUSE OF ACTION FOR STRICT PRODUCTS LIABILITY**

3 **I.**

4 **Design Defect:** Defendants, and DOE Defendants 1-50, have for many years,
5 manufactured, sold, distributed, designed, formulated, developed standards for, prepared,
6 processed, assembled, tested, listed, certified, marketed, advertised, packaged and/or labeled,
7 and/or otherwise placed into the stream of commerce, talc powder products containing asbestos,
8 asbestiform fibers, and asbestiform talc. First, these Defendants' products were defective and
9 unsafe for their intended purpose and foreseeable use in that when used, handled, mixed, or
10 otherwise disturbed, said products would result in the release, and therefore inhalation, of
11 hazardous and dangerous asbestos fibers, asbestiform fibers, and asbestiform talc by exposed
12 persons, including Mr. Doyle. Second, each product did not perform as safely as an ordinary
13 consumer would have expected it to perform when used or misused in an intended or reasonably
14 foreseeable way, because each product caused hazardous asbestos, asbestiform fibers, and
15 asbestiform talc to become airborne. Third, Mr. Doyle developed mesothelioma. Fourth, each
16 product's failure to perform safely was a substantial factor in causing Mr. Doyle's mesothelioma
17 and wrongful death.

18 **II.**

19 **Failure-to-Warn Defect:** The Defendants, and DOE Defendants 1-50, are strictly liable
20 for their products' failure-to-warn defects. First, these Defendants and/or their predecessors have
21 for many years, manufactured, sold, distributed, designed, formulated, developed standards for,
22 prepared, processed, assembled, tested, listed, certified, marketed, advertised, packaged and/or
23 labeled, and/or otherwise placed into the stream of commerce, talc powder products containing
24 asbestos, asbestiform fibers, and asbestiform talc. Second, each product had potential risks that
25 were known or knowable in light of the scientific and medical knowledge that was generally
26 accepted in the scientific community at the time of design, manufacture, label, distribution, and
27 sale. Third, the potential risks presented a substantial danger when each product was used or
28 misused in an intended or reasonably foreseeable way, because each product caused hazardous

1 asbestos, asbestiform fibers, and asbestiform talc to become airborne. Fourth, ordinary consumers
2 would not have recognized the potential risks. Fifth, these Defendants failed to adequately warn or
3 instruct of the potential risks. Sixth, Mr. Doyle developed mesothelioma. Seventh, the lack of
4 sufficient warnings or instructions was a substantial factor in causing Mr. Doyle's mesothelioma
5 and wrongful death.

6 **III.**

7 **Knowledge of Asbestos Hazards:** The following facts are illustrative, but not exhaustive,
8 of the evolution of the knowledge of the health hazards of asbestos and what was known and
9 knowable to Defendants. Health hazards from asbestos exposure were identified in the 1890s.
10 During this time, the Lady Inspector of Factories in Great Britain noted that individuals working
11 with asbestos were suffering various lung injuries.

12 Defendants since the early 1900s possessed medical and scientific data that raised concerns
13 regarding the presence of asbestos in talcum powder and that demonstrated the existence of health
14 hazards to those exposed to asbestos-containing talcum powder products. Talc is a hydrous
15 magnesium silicate, an inorganic material that is mined from the earth. Talc is used in the
16 manufacture of goods such as paper, plastic, paint and coatings, rubber, food, electric cable,
17 ceramics, and cosmetics. In its loose form and as used in consumer powder products, talc is known
18 as "talcum powder."

19 Geologists and mining companies, including Defendants, have long known that the
20 deposits in the earth that are associated with talc are also associated with the formation of
21 asbestos. Asbestos is a commercial and legal term, rather than a geological or scientific term,
22 referring to six now-regulated magnesium silicate minerals that occur in fibrous form, including
23 the serpentine mineral chrysotile, and the amphibole minerals actinolite, anthophyllite, tremolite,
24 amosite, and crocidolite. The United States Geological Survey on Commercial Talc production in
25 1965, as well as those dating back to the 1800s in the United States, note the presence of tremolite,
26 anthophyllite, and chrysotile commonly among those minerals found within talc deposits.

27 As early as the 1920s, the term "asbestosis" was used to describe pulmonary fibrosis
28 caused by asbestos exposure. Case reports in Great Britain and the United States detailed

1 asbestosis in various workers. By 1929, lawsuits for disability related to exposure to asbestos were
2 filed against Johns Manville.

3 In the late 1930s, case reports were published addressing the relationship between asbestos
4 and cancer. In 1931, the United Kingdom allowed workers to receive compensation for asbestosis.
5 In 1936, California's Division of Industrial Safety issued Safety Orders establishing the standard
6 of care for work with asbestos. The same year, the State of Illinois enacted legislation recognizing
7 asbestosis as a compensable occupational disease under its Occupational Disease Act.

8 In March of 1933, Waldemar C. Dreesen of the United States Public Health Service
9 reported to the National Safety Council the results of a study conducted among tremolite, talc, and
10 slate workers. The study indicated that the talc was a hydrous calcium magnesium silicate, being
11 45 percent talc and 45 percent tremolite, and the National Safety Council stated, "[t]he results of
12 the study seemed to indicate a relationship between the amount of dust inhaled and the effect of
13 this dust on the lungs of the workers." As early as 1934, the National Safety Council was
14 publishing information stating that "a cause of severe pulmonary injury is asbestos, a silicate of
15 magnesium." In the September 1935 issue of National Safety News, an article entitled *No Halfway*
16 *Measures in Dust Control* by Arthur S. Johnson reported lowered lung capacity resulting from
17 "asbestosis" and "similar conditions" that developed "from exposure to excess of many mineral
18 dusts relatively low in free silica content." The article further noted that claims for disabilities
19 from workers who alleged exposure to "clay, talc, emery, and carborundum dusts" had "claims
20 prosecuted successfully." The article concluded that "[i]n the absence of adequate diagnoses,
21 occupational histories and a more satisfactory method of adjudicating claims than prosecution at
22 common law, we must conclude that it is necessary to find a practical method for controlling all
23 mineral dusts."

24 By the 1940s, asbestos carcinogenicity was noted in reviews in fields of industrial
25 medicine, cancer research, and pneumoconiosis. In 1946, the American Conference of
26 Governmental Industrial Hygienists established a maximum allowable concentration for
27 occupational exposure.

28 During the 1940s and 1950s, asbestos hazards were discussed in popular magazines,

1 including Scientific American (January 1949) and Newsweek (May 15, 1950), as well as the
2 Encyclopedia Britannica (1952). On April 7, 1959, the Los Angeles Times and Wall Street Journal
3 reported that California health officials did additional research linking asbestos with cancer.
4 Following a number of subsequent reports in the New York Times, Paul Brodeur published a
5 series of articles in the New Yorker.

6 In addition, beginning in the 1940s and 1950s, it was recognized that individuals who
7 worked with asbestos materials, as well as those who did not work directly with asbestos products
8 but only had relatively brief or intermittent exposures to asbestos products, could develop fatal
9 asbestos diseases.

10 In 1955, Richard Doll published a study linking asbestos to lung cancer.

11 In 1960, Chris Wagner published a study linking asbestos to mesothelioma.

12 In the early 1960s, Dr. Irving Selikoff engaged in studies of groups of asbestos workers.
13 By 1965, he had conducted various studies, published several articles, conducted special scientific
14 symposia, been interviewed by the New York Times, and organized the international conference
15 on the “Biological Effects of Asbestos” under the auspices of the renowned New York Academy
16 of Sciences. The results of these presentations were published in Volume 132 of the Annals of the
17 New York Academy of Sciences published in 1965.

18 In 1968, a study presented at the American Industrial Hygiene Conference and published
19 in the American Industrial Hygiene Association Journal concluded that “[a]ll of the 22 talcum
20 products analyzed have a...fiber content...averaging 19%. The fibrous material was predominantly
21 talc but contained minor amounts of tremolite, anthophyllite, and chrysotile as these are often
22 present in fibrous talc mineral deposits...Unknown significant amounts of such materials in
23 products that may be used without precautions may create an unsuspected problem.” [Cralley, L.J.,
24 et al., *Fibrous and Mineral Content of Cosmetic Talcum Products*, 29 Am. Ind. Hyg. Assoc. J. 350
25 (1968).]

26 In 1969, product-liability lawsuits were brought against asbestos manufacturers. Under the
27 Walsh Healy Act, federal contractors with contracts of more than \$10,000 were required to adhere
28 a workplace standard of no more than 12 fibers per cubic centimeter of air. In 1970, OSHA

1 established the first Federal guidelines for workplace asbestos exposure, which took effect in
2 1971. In 1972, the American Conference of Governmental Industrial Hygienists listed asbestos as
3 a carcinogen.

4 A 1976 follow-up study conducted by researchers at Mount Sinai Hospital in New York
5 concluded that “[t]he presence in these products of asbestiform anthophyllite and tremolite,
6 chrysotile, and quartz indicates the need for a regulatory standard for cosmetic talc...We also
7 recommend that evaluation be made to determine the possible health hazards associated with the
8 use of these products.” [Rohl, A.N., et al., *Consumer Talcums and Powders: Mineral and*
9 *Chemical Characterization*, 2 J. Toxicol. Environ. Health 255 (1976).] The results of the Mount
10 Sinai study were soon picked up and reported by both the New York Times and the Washington
11 Post that same year. The study and subsequent newspaper articles listed explicitly popular
12 consumer cosmetic talcum powders as containing high percentages of asbestos.

13 In the early 1970s, the U.S. Food and Drug Administration began an inquiry into whether
14 to regulate and require warnings on consumer talcum powder products. Defendants, who were part
15 of an exclusive lobbying and advocacy group representing companies engaged in the cosmetic
16 products industry, repeatedly conspired and worked in concert to block efforts to label and warn
17 consumers regarding the dangers associated with cosmetic talcum powder products.

18 Several reports, studies, and guidelines published as early as the 1930s, including
19 California’s Dust, Fumes, Vapors, and Gases Safety Orders, all recognized that asbestos is a dust
20 which creates health hazards, and that certain precautions are required to mitigate human exposure
21 to dust. Such measures include, but are not limited to, using water to suppress the dust at its
22 source, as well as providing those who might be exposed to dust with adequate ventilation,
23 showers, and changing facilities. These same measures that were recommended to protect workers
24 from asbestosis in the 1930s would also have substantially reduced the risk that bystanders,
25 household members, and other persons would contract mesothelioma from inhaling asbestos-
26 containing dust that those who worked with and around asbestos and asbestos-containing products
27 carried into their households on their person and personal effects. Defendants, and each of them,
28 knew or should have known that anyone, including household members of those who used

1 asbestos-containing products were at risk of developing an asbestos-related disease after inhaling
2 dust from such asbestos-containing products.

3 All Defendants failed to place any warning on their talc and talcum powder products or ever
4 disclose the fact that these products contained asbestos, asbestiform fibers, and asbestiform talc at any
5 point, up to and including present day, despite the clear hazard and direct information that their
6 products did contain asbestos, asbestiform fibers, and asbestiform talc.

7 **SECOND CAUSE OF ACTION FOR NEGLIGENCE**

8 **I.**

9 **General Negligence:** All Defendants, and DOE Defendants 1-50, are liable for their
10 general negligence. First, Defendants failed to use reasonable care to prevent harm to others,
11 because they caused hazardous asbestos, asbestiform fibers, and asbestiform talc to become
12 airborne. Second, Defendants unreasonably acted and failed to act. They acted in ways that a
13 reasonably careful person would not do in the same situation, and failed to act in ways that a
14 reasonably careful person would do in the same situation. Third, Mr. Doyle developed
15 mesothelioma. Fourth, each Defendant's general negligence was a substantial factor in causing
16 Mr. Doyle's mesothelioma and wrongful death.

17 **II.**

18 **Negligent Design, Manufacture, Supply, Testing, Packaging, and Labeling of**
19 **Products:** The Defendants, and DOE Defendants 1-50, are liable for their negligent design,
20 manufacture, marketing, supply, testing, packaging, and labeling of talc powder products
21 containing asbestos, asbestiform fibers, and asbestiform talc. First, these Defendants designed,
22 manufactured, sold, distributed, formulated, developed standards for, prepared, processed,
23 assembled, tested, listed, certified, marketed, advertised, packaged and/or labeled, and/or
24 otherwise placed into the stream of commerce, talc powder products containing asbestos,
25 asbestiform fibers, and asbestiform talc. Second, these Defendants were negligent in
26 manufacturing, selling, distributing, developing standards for, processing, assembling, testing,
27 certifying, marketing, advertising, packaging and/or labeling, and/or otherwise placing into the
28 stream of commerce, talc powder products containing asbestos, asbestiform fibers, and

1 asbestiform talc because they caused hazardous asbestos, asbestiform fibers, and asbestiform talc
2 to become airborne. They failed to use the amount of care that a reasonably careful person would
3 use in similar circumstances to avoid exposing others to a foreseeable risk of harm. Third,
4 Mr. Doyle developed mesothelioma. Fourth, each Defendant's negligence was a substantial factor
5 in causing Mr. Doyle's mesothelioma and wrongful death.

6 **III.**

7 **Negligent Failure to Warn about Products:** The Defendants, and DOE Defendants 1-50,
8 are liable for their negligent failure to warn about their products. First, these Defendants designed,
9 manufactured, marketed, distributed, packaged, labeled, and sold talc powder products containing
10 asbestos, asbestiform fibers, and asbestiform talc. Second, these Defendants knew or reasonably
11 should have known that each product was dangerous or was likely to be dangerous when used or
12 misused in a reasonably foreseeable manner, because each product caused hazardous asbestos,
13 asbestiform fibers, and asbestiform talc to become airborne. Third, these Defendants knew or
14 reasonably should have known that users would not realize the danger. Fourth, these Defendants
15 failed to adequately warn of the danger or instruct on the safe use of each product. Fifth, a
16 reasonably careful person under the same or similar circumstances would have warned of the
17 danger or instructed on the safe use of each product. Sixth, Mr. Doyle developed mesothelioma.
18 Seventh, each Defendant's negligent failure to warn or instruct was a substantial factor in causing
19 Mr. Doyle's mesothelioma and wrongful death.

20 **IV.**

21 **Negligent Failure to Recall and Retrofit Products:** The Defendants, and DOE
22 Defendants 1-50, are liable for their negligent failure to recall and retrofit their products. First,
23 these Defendants designed, manufactured, marketed, distributed, packaged, labeled, and sold talc
24 powder products containing asbestos, asbestiform fibers, and asbestiform talc. Second, these
25 Defendants knew or reasonably should have known that each product was dangerous or was likely
26 to be dangerous when used in a reasonably foreseeable manner, because each product caused
27 hazardous asbestos, asbestiform fibers, and asbestiform talc to become airborne. Third, these
28 Defendants became aware of this defect after each product was sold. Fourth, these Defendants

1 failed to recall and retrofit each product. Fifth, a reasonably careful person under the same or
2 similar circumstances would have recalled and retrofitted each product. Sixth, Mr. Doyle
3 developed mesothelioma. Seventh, each Defendant's negligent failure to recall and retrofit each
4 product was a substantial factor in causing Mr. Doyle's mesothelioma and wrongful death.

5 **THIRD CAUSE OF ACTION FOR FRAUD**

6 **I.**

7 **Fraudulent Misrepresentation:** All Defendants, and DOE Defendants 1-50, are liable for
8 their fraudulent misrepresentations.

9 First, each of these Defendants, via its employees, agents, advertisements, or any other
10 authorized person or document, represented that certain facts were true when they were not. The
11 specific identities of these employees, agents, advertisements, or any other authorized person or
12 document are maintained in Defendants' records. Such records remain in the exclusive control of
13 Defendants pursuant to Defendants' respective document-retention policies. While Plaintiffs do
14 not currently know the specific advertisements or names of the employees, agents, or any other
15 authorized person who made the representations, they will have access to this information once
16 discovery has commenced and will be able to specifically name the advertisement as well as the
17 employee, agent, or any other authorized person.

18 Second, Defendants represented that the products they manufactured, supplied, or specified
19 for use were not hazardous to humans. These representations were made before and during the
20 years that Mr. Doyle purchased and was exposed to asbestos, asbestiform fibers, and asbestiform
21 talc from Defendants' talc powder products. Such representations were made either directly to
22 Mr. Doyle, or to a third party intending and reasonably expecting that the substances of these
23 misrepresentations would be repeated to Mr. Doyle.

24 Third, Defendants knew that the representations were false when they made them, or they
25 made the representations recklessly and without regard for their truth.

26 Fourth, Defendants intended that Mr. Doyle and/or the same class of persons as Mr. Doyle
27 rely on the representations or their substance.

28 Fifth, Mr. Doyle reasonably relied on Defendants' representations or the substance of these

1 representations.

2 Sixth, Mr. Doyle developed mesothelioma.

3 Seventh, Mr. Doyle's reliance on these representations was a substantial factor in causing
4 Mr. Doyle's mesothelioma and wrongful death.

5 **II.**

6 **Fraudulent Concealment (Nondisclosure):** All Defendants, and DOE Defendants 1-50,
7 are liable for their fraudulent concealment (nondisclosure).

8 First, each of these Defendants made affirmative statements that were so misleading (e.g.
9 misleading "half-truths") that they gave rise to a fraud cause of action even in the absence of a
10 specific relationship or transaction as between Defendants and Mr. Doyle. Specifically,
11 Defendants stated that their products could be used safely while concealing they were in fact lethal
12 because they contain and release asbestos fibers, asbestiform fibers, and asbestiform talc.

13 Second, Defendants (i) had exclusive knowledge of material facts not known to Mr. Doyle
14 (as set forth above), (ii) actively concealed these material facts from Mr. Doyle, (iii) made partial
15 representations but also suppressed material facts, as set forth above, and (iv) made factual
16 representations, but did not disclose facts which materially qualified those representations. Such
17 nondisclosures included Defendants representing their products as safe when used as intended and
18 as fit for the particular purpose for which they were marketed, while not disclosing the facts that
19 these products contained asbestos, asbestiform fibers, and asbestiform talc that would become
20 airborne during the intended and foreseeable use of the products, rendering them dangerous and
21 unfit for their intended purpose.

22 Third, each Defendant entered into a relationship and/or a transaction with Mr. Doyle
23 sufficient to give rise to a duty to disclose. For example, Mr. Doyle used or otherwise encountered
24 Defendants' products that were purchased either directly from Defendants, Defendants' authorized
25 dealer or supplier, or any other entity upon which Defendants derived a direct monetary benefit
26 directly from Mr. Doyle's purchase and use of the products. As for another example, Defendants
27 directly advertised their products to those in California and elsewhere, as a symbol of freshness,
28 cleanliness, and purity. Defendants advertised and marketed this product as the beacon of

1 “freshness” and “comfort”, eliminating friction on the skin, absorbing “excess wetness” helping
2 keep skin feeling dry and comfortable, and “clinically proven gentle and mild.” The Defendants
3 compelled men and women through advertisements to dust themselves with this product to mask
4 odors. Defendants derived direct monetary benefit from these individuals’ use of these products
5 because Mr. Doyle decided to use or purchase Defendants’ products.

6 Fourth, Mr. Doyle did not know of the concealed facts.

7 Fifth, Defendants intended to deceive Mr. Doyle by concealing the facts, and/or by making
8 certain representations without disclosing additional facts that would have materially qualified
9 those representations.

10 Sixth, had the omitted information been disclosed, Mr. Doyle reasonably would have
11 behaved differently.

12 Seventh, Mr. Doyle developed mesothelioma.

13 Eighth, each Defendant’s concealment was a substantial factor in causing Mr. Doyle’s
14 mesothelioma and wrongful death.

15 **III.**

16 **Conspiracy to Commit Fraudulent Misrepresentation:** Plaintiffs hereby incorporate by
17 reference the allegations of Paragraph I of this Third Cause of Action as if fully stated herein.

18 All Defendants, and DOE Defendants 1-50, are liable for their conspiracy to commit
19 fraudulent misrepresentation. First, Defendants were aware that their conspirators, which included
20 all co-defendants and others, planned to commit fraudulent misrepresentation against Mr. Doyle.
21 Second, Defendants agreed with their conspirators and intended that the fraudulent
22 misrepresentation be committed. Third, Mr. Doyle developed mesothelioma. Fourth, each
23 Defendant’s participation in the conspiracy was a substantial factor in causing Mr. Doyle’s
24 mesothelioma and wrongful death.

25 **IV.**

26 **Conspiracy to Commit Fraudulent Concealment (Nondisclosure):** Plaintiffs hereby
27 incorporate by reference the allegations of Paragraph II of this Third Cause of Action as if fully
28 stated herein.

1 All Defendants, and DOE Defendants 1-50, are liable for their conspiracy to commit
2 fraudulent concealment. First, Defendants were aware that their conspirators, which included all
3 co-defendants and others, planned to commit fraudulent concealment against Mr. Doyle. Second,
4 Defendants agreed with their conspirators and intended that the fraudulent concealment be
5 committed. Third, Mr. Doyle developed mesothelioma. Fourth, each Defendant's participation in
6 the conspiracy was a substantial factor in causing Mr. Doyle's mesothelioma and wrongful death.

7 **V.**

8 **Knowledge of Hazards:** At all times pertinent hereto, all Defendants, including DOE
9 Defendants 1-50, owed Mr. Doyle a duty, as provided for in Civil Code sections 1708, 1709, and
10 1710, to abstain from injuring his person, property, or rights. In violation of that duty, these
11 Defendants, and each of them, did do the acts and omissions, when a duty to act was imposed, as
12 set forth herein, thereby proximately causing injury to Mr. Doyle. Such acts and omissions
13 consisted of acts falling within Civil Code section 1710, and more specifically were (i)
14 suggestions of fact which were not true and which the Defendants did not believe to be true, (ii)
15 assertions of fact of that which was not true, which the Defendants had no reasonable ground for
16 believing it to be true, and (iii) the suppression of facts when a duty existed to disclose it, as more
17 fully set forth herein, and the violation of which as to any one such item gave rise to a cause of
18 action for violation of Mr. Doyle's rights as provided for in the aforementioned code sections.

19 Since 1924, all of the Defendants have known and possessed of the true facts (consisting of
20 medical and scientific data, and other knowledge) which clearly indicated that the materials and
21 products referred to herein were and are hazardous to the health and safety of Mr. Doyle, and
22 others similarly situated. Defendants engaged in the following acts and omissions:

- 23 (a) Did not label any of the aforementioned asbestos-containing materials and
24 products as to the hazards of such materials and products to the health and
25 safety of Mr. Doyle, and others in their position using these products when
26 the knowledge of such hazards was existing and known to Defendants, and
27 each of them, since 1924. By not labeling such materials as to their said
28 hazards, Defendants, and each of them, caused to be suggested as a fact to
Mr. Doyle that it was safe for his to use such materials, when in fact these
things were not true and Defendants did not believe them to be true.

///

Kazan, McClain, Satterley & Greenwood

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- (b) Suppressed information relating to the danger of using the aforementioned materials by requesting the suppression of information to Mr. Doyle, and the general public concerning the dangerous nature of the aforementioned materials to all persons, including users, bystanders and household members, by not allowing such information to be disseminated in a manner which would give general notice to the public and knowledge of the hazardous nature thereof when Defendants were bound to disclose such information.
- (c) Sold the aforementioned products and materials to the public, including Mr. Doyle, and others in California and other states without advising them of the dangers of use of such materials and to those persons' household members, when Defendants knew of such dangers, as set forth herein and above, and had a duty to disclose such dangers. Thus, Defendants caused to be positively asserted to Mr. Doyle, and the public that which was not true and which Defendants had no reasonable ground for believing it to be true, in a manner not warranted by the information possessed by said Defendants, and each of them, of that which was and is not true, to wit, that it was safe for Mr. Doyle to use such materials and that it did not pose a risk of harm.
- (d) Suppressed and continue to suppress from everyone, including Mr. Doyle, medical, scientific data, and knowledge of the accurate results of studies including, but not limited to, Waldemar C. Dreesen of the United States Public Health Service's 1933 report to the National Safety Council the results of a study conducted among tremolite, talc and slate workers. The study indicated that the talc was a hydrous calcium magnesium silicate, being 45 percent talc and 45 percent tremolite, and the National Safety Council stated "[t]he results of the study seemed to indicate a relationship between the amount of dust inhaled and the effect of this dust on the lungs of the workers." As early as 1934, the National Safety Council was publishing information stating that "a cause of severe pulmonary injury is asbestos, a silicate of magnesium." In the September 1935 issue of National Safety News, an article entitled *No Halfway Measures in Dust Control* by Arthur S. Johnson reported lowered lung capacity resulting from "asbestosis" and "similar conditions" that developed "from exposure to excess of many mineral dusts relatively low in free silica content." The article further noted that claims for disabilities from workers who alleged exposure to "clay, talc, emery, and carborundum dusts" had "claims prosecuted successfully." The article concluded that "[i]n the absence of adequate diagnoses, occupational histories and a more satisfactory method of adjudicating claims than prosecution at common law, we must conclude that it is necessary to find a practical method for controlling all mineral dusts."
- (e) Belonged to, participated in, and financially supported the Industrial Hygiene Foundation, Asbestos Information Association, the Asbestos Textile Institute (ATI), and other industry organizations, including the Cosmetic, Toiletry, and Fragrance Association (now known as the Personal Care Products Council), which actively promoted the suppression of information of danger to users of the aforementioned products and materials for and on behalf of Defendants, and each of them, thereby misleading Mr. Doyle to their prejudice through the suggestions and deceptions set forth above in this cause of action. ATI's Dust Control Committee, which

1 changed its name to the Air Hygiene Committee of ATI, was specifically
2 enjoined to study the subject of dust control; discussions in such committee
3 were held many times of (i) the dangers inherent in asbestos and the dangers
4 which arise from the lack of control of dust and (ii) the suppression of such
5 information from 1946 to a date unknown to Plaintiffs at this time.

6 (f) Knew and possessed medical and scientific information of the connection
7 between inhalation of asbestos fibers and asbestosis in 1930 with the study
8 of mine and mill workers at the Thetford asbestos mines in Quebec,
9 Canada, and the study of workers at Raybestos-Manhattan plants in
10 Manheim and Charleston, South Carolina. This information was
11 disseminated through the ATI and other industry organizations to all other
12 Defendants, and each of them, herein. Between 1942 and 1950, Defendants,
13 and each of them, knew and possessed medical and scientific information of
14 the connection between inhalation of asbestos fibers and cancer, which
15 information was disseminated through the ATI and other industry
16 organizations to all other Defendants herein. Thereby, Defendants
17 suggested as fact that which is not true and disseminated other facts likely
18 to and did mislead Mr. Doyle for want of communication of true facts,
19 which consisted of the previously described medical and scientific data and
20 other knowledge by not giving Mr. Doyle the true facts concerning such
21 knowledge of danger, when Defendants were bound to disclose it.

22 (g) Failed to warn Mr. Doyle and others similarly situated regarding the nature
23 of Defendants' talcum products. In 1968, a study presented at the American
24 Industrial Hygiene Conference and published in the American Industrial
25 Hygiene Association Journal concluded that "[a]ll of the 22 talcum products
26 analyzed have a...fiber content...averaging 19%. The fibrous material was
27 predominantly talc but contained minor amounts of tremolite, anthophyllite,
28 and chrysotile as these are often present in fibrous talc mineral
deposits...Unknown significant amounts of such materials in products that
may be used without precautions may create an unsuspected problem."
[Cralley, L.J., et al., *Fibrous and Mineral Content of Cosmetic Talcum
Products*, 29 Am. Ind. Hyg. Assoc. J. 350 (1968).] Defendants failed to
warn Mr. Doyle and others similarly situated that their talcum products are,
among other things, dangerous when breathed and causes pathological
effects without noticeable trauma, although Defendants possessed
knowledge that such material was dangerous and a threat to the health of
persons coming into contact therewith and under a duty to disclose it.

(h) Concealed from Mr. Doyle, and others similarly situated the true nature of
their exposure, the fact that Defendants knew that exposure to respirable
asbestos meant that Mr. Doyle would inhale this asbestos, significantly
increasing his risk of developing asbestosis, lung cancer, and mesothelioma;
that Mr. Doyle that had in fact been exposed to respirable asbestos; that the
materials to which Mr. Doyle was exposed would cause pathological effects
in the human body without noticeable or perceptible trauma to warn him of
injury; and Defendants engaged in these acts and omissions while under a
duty to and bound to disclose this information.

(i) Failed to provide information to the public at large and buyers, users and
physicians of Mr. Doyle for the purpose of conducting physical
examinations of anyone whom came in contact with asbestos as to the true

1 nature of the hazards of asbestos, in order for such physicians to diagnose,
2 and treat individuals coming into contact with asbestos, in that the materials
3 to which Mr. Doyle had been exposed would cause pathological effects
4 without noticeable trauma, even though Defendants were under a duty to
supply such information and such failure was and is likely to mislead
persons including Mr. Doyle as to the dangers and risk of harm to which
they were exposed.

- 5 (j) Affirmatively misrepresented that asbestos-containing products were safe to
6 use and handle, when Defendants knew such statements were false when
7 made, or made said false statements recklessly and without regard for
whether the statements were true.

8 Each of the foregoing acts, suggestions, assertions, and forbearances to act when a duty
9 existed to act, the said Defendants, and each of them, having such knowledge, knowing Mr. Doyle
10 did not have such knowledge and would breathe such material innocently, was done falsely and
11 fraudulently and with full intent to induce Mr. Doyle to work in a dangerous environment and to
12 cause them to remain unaware of the true facts, all in violation of Civil Code section 1710.

13 **BASIS FOR PUNITIVE DAMAGES**

14 **I.**

15 **Malice, Oppression, and Fraud:** Plaintiffs hereby incorporate by reference the allegations
16 of all causes of action as if fully stated herein. All Defendants, and DOE Defendants 1-50, are
17 liable for punitive damages because they engaged in the conduct that caused Mr. Doyle's harm
18 with malice, oppression, or fraud.

19 First, these Defendants committed malice in that they acted with intent to harm when they
20 caused Mr. Doyle's exposures to asbestos, asbestiform fibers, and asbestiform talc, and because
21 their conduct was despicable and was done with a willful and knowing disregard of the rights and
22 safety of others.

23 Second, these Defendants committed oppression in that their conduct was despicable and
24 subjected Mr. Doyle to cruel and unjust hardship in knowing disregard of his rights.

25 Third, the Defendants committed fraud in that they intentionally and fraudulently
26 concealed and misrepresented material facts and did so intending to harm Mr. Doyle and with
27 reckless disregard for whether their fraud would harm Mr. Doyle.

28 These Defendants' conduct constituting malice, oppression, and fraud was committed by,

1 authorized by, and adopted by one or more officers, directors, and managing agents within the
2 corporate hierarchy of each Defendant, who acted on behalf of each Defendant.

3 **PRAYER FOR DAMAGES**

4 **I.**

5 Plaintiffs pray for judgment against all Defendants for:

- 6 1. All economic and non-economic compensatory damages in excess of \$25,000;
7 2. Punitive damages according to proof;
8 3. Pre- and post-judgment interest;
9 4. Costs of suit; and
10 5. Such other relief as is fair, just, and equitable.

11 **DEMAND FOR JURY TRIAL**

12 **I.**

13 Plaintiffs hereby demand a trial by jury on all issues so triable.

14
15 DATED: March 8, 2019

KAZAN, McCLAIN, SATTERLEY & GREENWOOD
A Professional Law Corporation

16
17
18 By: 

19 Joseph D. Satterley
20 Denyse F. Clancy

21 Attorneys for Plaintiffs
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Exhibit A

Joseph Satterley (C.S.B. #286890)
Denyse F. Clancy (C.S.B. #255276)
Ian A. Rivamonte (C.S.B. #232663)
irivamonte@kazanlaw.com
KAZAN, McCLAIN, SATTERLEY & GREENWOOD
A Professional Law Corporation
Jack London Market
55 Harrison Street, Suite 400
Oakland, California 94607
Telephone: (510) 302-1000
Facsimile: (510) 835-4913

Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

DANIEL CHRISTOPHER DOYLE and
KRISTIE LYNN DOYLE,

Plaintiffs,

v.

IMERYS TALC AMERICA, INC., et al.,

Defendants.

Case No. 18CV333609

Assigned for All Purposes to
Judge Thomas E. Kuhnle, Department 5

**DECLARATION OF SUCCESSOR IN
INTEREST**

Action Filed: August 27, 2018

I, Kristie Lynn Doyle, declare:

1. I make this declaration pursuant to Code of Civil Procedure section 377.32 to commence any and all actions related to Daniel Christopher Doyle's exposure to asbestos which survive his death.

2. Daniel Christopher Doyle died in Grove City, Ohio on December 20, 2018.

3. No proceeding is now pending in California or Ohio for the administration of Daniel Christopher Doyle's estate.

4. I am Daniel Christopher Doyle's successor in interest, as defined in Code of Civil Procedure section 377.11, and succeed to his interest in the action or proceeding.

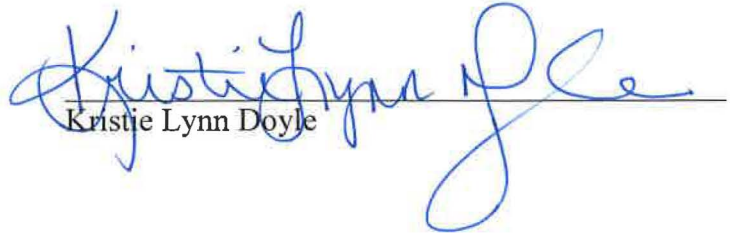
5. No other person has a superior right to commence and/or continue the action or proceeding, or to be substituted for Daniel Christopher Doyle in the pending action or proceeding.

6. Attached hereto is a true and correct certified copy of Daniel Christopher Doyle's

1 death certificate.

2 I declare under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct, and that I signed this declaration at Grove City, Ohio on January
4 11, 2019.

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Kristie Lynn Doyle

Kazan, McClain, Satterley & Greenwood

A Professional Law Corporation

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(510) 302-1000 • Fax: (510) 835-4913 • www.kazanlaw.com

Primary Reg. Dist. No. 2507

Ohio Department of Health - Vital Statistics

State File No. 2018122375

Registrar's No. 2500-2018013346

CERTIFICATE OF DEATH

DECEDENT	1. Decedent's Legal Name (First, Middle, Last, Suffix) (Include AKA's if any) DANIEL CHRISTOPHER DOYLE						2. Sex MALE	3. Date of Death (Month/Day/Year) DECEMBER 20, 2018
	4. Social Security Number [REDACTED]	5a. Age (Years) 48	5b. Under 1 Year Months 	5c. Under 1 day Hours 	5d. Under 1 day Minutes 	6. Date of Birth (Mo/Day/Year) NOVEMBER 29, 1970	7. Birthplace (City and State or Foreign Country) COLUMBUS, OHIO	
	8a. Residence State OHIO		8b. County FRANKLIN			8c. City or Town GROVE CITY		
	8d. Street Address and Zip Code 2575 BRUNSWICK DRIVE 43123						9. Ever in US Armed Forces? NO	
DISPOSITION	10. Marital Status at Time of Death MARRIED				11. Surviving Spouse's Name (If wife, give name prior to first marriage) KRISTIE LYNN YORS			
	12. Decedent's Education MASTERS DEGREE (E.G., MA, MS..)				13. Decedent of Hispanic Origin NO		14. Decedent's Race WHITE	
	15. Father's Name RAYMOND DOYLE				16. Mother's Name (prior to first marriage) BEVERLY RUSSELL			
	17a. Informant's Name KRISTIE L DOYLE				17b. Relationship to Decedent WIFE		17c. Mailing Address (Street and Number, City, State, Zip Code) 2575 BRUNSWICK DRIVE GROVE CITY, OHIO 43123	
	18a. Place of Death DECEDENT'S HOME				18b. City or Town, State and Zip Code GROVE CITY, OH 43123			
	18c. Facility Name (If not Institution, give street & number) 2575 BRUNSWICK DRIVE				18d. County of Death FRANKLIN			
	19. Funeral Service Licensee or Other Agent JONATHAN DAVID POLING				20. License Number (of licensee) 009464		21. Name and Complete Address of Funeral Facility SCHOEDINGER GROVE CITY CHAPEL 3920 BROADWAY ST GROVE CITY, OH 43123	
	22. Method and Place of Disposition CREMATION - SCHOEDINGER/COLUMBUS CREMATORY, COLUMBUS, OH							
	23. Local Registrar SANDRA TAYLOR				24. Date Filed (Month/Day/Year) DECEMBER 31, 2018			
	CERTIFIER	25a. Certifier (Check only one) <input checked="" type="checkbox"/> Certifying Physician: To the best of my knowledge, death occurred at the time, date, and place; and due to the cause(s) and manner stated. <input type="checkbox"/> Coroner or Medical Examiner: On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place; and due to the cause(s) and manner stated.						
25b. Time of Death 2300		25c. Date Pronounced Dead (Month/Day/Year) DECEMBER 20, 2018		25d. Was Case Referred to Medical Examiner or Coroner? NO				
25e. Certifier Name and Title JENNIFER LAUREN HIRSH MD		25f. License number 35.090105		25g. Date Signed (Month/Day/Year) DECEMBER 31, 2018				
27. Name and Address of Person who Completed Cause of Death JENNIFER LAUREN HIRSH, 1144 DUBLIN ROAD, COLUMBUS, OH 43215								
CAUSE OF DEATH	28. Part I. Enter the disease, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. Type or print in permanent blue or black ink.						Approximate Interval: Onset and Death	
	Immediate Cause (Final disease or condition resulting in death)		a. METASTATIC MESOTHELIOMA TO LEFT PLEURAL METASTASIS AND PERITONEUM WITH PERITONEAL CARCINOMATOSIS				6 MONTHS	
	Sequentially list conditions, if any, leading to immediate cause.		b. Due to (or as Consequence of)					
	Enter Underlying Cause (Disease or injury that initiated events resulting in a death)		c. Due to (or as Consequence of)					
Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.								
29a. Was An Autopsy Performed? NO						29b. Were Autopsy Findings Available Prior To Completion Of Cause of Death? NOT APPLICABLE		
30. Did Tobacco Use Contribute to Death? NO		31. If Female, Pregnancy Status NOT APPLICABLE.				32. Manner of Death NATURAL		
33a. Date of Injury (Mo/Day/Year)		33b. Time of Injury		33c. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area)			33d. Injury at Work?	
33e. Location of Injury (Street and Number or Rural Route Number, City or Town, State)								
33f. Describe How Injury Occurred:						33g. If Transportation Injury, Specify:		

HEA 2724 Rev. 08/18

Sandra Taylor, Franklin County Registrar

DEC 31 2018

Sandra Taylor



06977071



Electronically filed
by Superior Court of CA,
County of Santa Clara,
on 3/11/2019 9:15 AM
Reviewed By: R. Walker
Case #18CV333609

PROOF OF SERVICE

Kristie Lynn Doyle, et al. v. Imerys Talc America, Inc., Env. #2608647
Alameda County Superior Court Case No. 18CV333609

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Alameda, State of California. My business address is Jack London Market, 55 Harrison Street, Suite 400, Oakland, CA 94607.

On March 11, 2019, I served true copies of the following document(s) described as:

**FIRST AMENDED COMPLAINT FOR PERSONAL INJURIES (SURVIVORSHIP)
AND WRONGFUL DEATH; DEMAND FOR JURY TRIAL**

on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY ELECTRONIC SERVICE: I electronically served the document(s) described above via File & ServeXpress, on the recipients designated on the Transaction Receipt located on the File & ServeXpress website (<https://secure.fileandservexpress.com>) pursuant to the Court Order establishing the case website and authorizing service of documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 11, 2019, at Oakland, California.


Catherine I. Boggs

SERVICE LIST

DENTONS US LLP	KING & SPALDING LLP
One Market Plaza	633 West 5th Street, Suite 1700
Spear Tower, 24 th Floor	Suite 1700
San Francisco CA 94105	Los Angeles CA 90071
Telephone: (415)267-4000	Telephone: 213-443-4355
Facsimile: (415)267-4198	Facsimile: 213-443-4310
FOR: CYPRUS MINES CORPORATION,	FOR: JOHNSON & JOHNSON , JOHNSON &
IMERYS TALC AMERICA, INC. fka	JOHNSON CONSUMER COMPANIES, INC.
LUZENAC AMERICA, INC., fka CYPRUS	, JOHNSON & JOHNSON CONSUMER INC.
TALC, IMERYS TALC AMERICA, INC. fka	sii JOHNSON & JOHNSON CONS
LUZENAC AMERICA INC., IMERYS TALC	COMPANIES
AMERICA, INC. fka LUZENAC AMERICA	
sii CYPR WINDSOR MINERAL, IMERYS	
TALC AMERICA, INC. fka LUZENAC	
AMERICA sii CYPRUS IND MINERALS ,	
IMERYS TALC AMERICA, INC. fka	
LUZENAC AMERICA sii CYPRUS MINES	
CORP, IMERYS TALC VERMONT, INC.	

Exhibit C

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF SANTA CLARA

3 HON. ROBERTA HAYASHI, JUDGE

4
5 KRISTIE LYNN DOYLE, et al.,

6 Plaintiffs,

7 vs.

Case No. 18CV333609

8 IMERYS TALC AMERICA, et al.,

9 Defendants.

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15 Reporter's Transcript of Remote Proceedings

16 Thursday, July 14, 2022

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22
23 Reported By: Sheila Pham, CSR No. 13293

APPEARANCES OF COUNSEL

For Plaintiffs:

KAZAN, MCCLAIN, SATTERLEY & GREENWOOD

BY: IAN RIVAMONTE, ESQ.

55 Harrison Street, Suite 400

Oakland, CA 94607

(510) 302-1000

irivamonte@kazanlaw.com

For Defendants Johnson & Johnson and Johnson & Johnson
Consumer, Inc.:

ORRICK, HERRINGTON & SUTCLIFFE

BY: C. ANNE MALIK, ESQ.

1152 15th Street, N.W.

Washington, DC 20005

(202) 339-8400

amalik@orrick.com

1 Thursday, July 14, 2022

2 10:34 a.m. - 10:45 a.m.

3

4 THE COURT: Let's go to Line 15, please, Doyle
5 versus Imerys Talc America, Inc.

6 MS. MALIK: Good morning, Your Honor. This is
7 Anne Malik --

8 (Simultaneous speaking.)

9 MS. MALIK: -- on behalf of Johnson & Johnson
10 and Johnson & Johnson Consumer, Inc.

11 THE COURT: I'm sorry, hold on just a moment.
12 I had a couple of people speaking at the same time. My
13 apologies. This is a case in which there's a lot of
14 attorneys. So hold on one moment. Let me get the list
15 of who's appearing today.

16 Okay. This is Line 15 on the calendar. It
17 originally had some different number, but it's Case
18 Number 18CV333609.

19 Let me ask first who is appearing for
20 plaintiffs, please.

21 MR. RIVAMONTE: Good morning, Your Honor.
22 Ian Rivamonte for the plaintiffs, Kristie Doyle and
23 Ethan Doyle.

24 THE COURT: Okay. Are there other appearances
25 for the plaintiffs?

1 MR. RIVAMONTE: No, Your Honor.

2 THE COURT: Okay. Thank you.

3 Are there any appearances for any of the
4 defendants?

5 MS. MALIK: Yes, Your Honor. This is
6 Anne Malik on behalf of Johnson & Johnson and Johnson &
7 Johnson Consumer, Inc.

8 THE COURT: And, Ms. Malik, could you just
9 please spell your last name for us.

10 MS. MALIK: Yes, M-A-L-I-K.

11 THE CLERK: And, Your Honor, did we receive a
12 reporter stip?

13 THE COURT: Is there a court reporter on this
14 matter?

15 THE REPORTER: Yes. Good morning, Your Honor.
16 This is Sheila Pham, court reporter.

17 THE COURT: All right. So we did receive a
18 stipulation for appointment of a reporter?

19 MR. RIVAMONTE: One was filed yesterday.

20 THE COURT: Oh, okay. We'll track that down.
21 It hasn't shown up yet in the file, but we will track
22 that down and sign it. Thank you.

23 So are there any other appearances for the
24 record on Doyle versus Imerys?

25 (No response.)

1 THE COURT: Hearing none.

2 I do see that this case was set for a jury
3 trial before Judge Rosen in April 2022, and it was
4 canceled because of the stay in the proceedings due to
5 the bankruptcy or for some other -- or for an appeal.
6 I'm not sure which. So --

7 MS. MALIK: Yes --

8 MR. RIVAMONTE: May I --

9 THE COURT: Go ahead.

10 MR. RIVAMONTE: Yes, Your Honor, Ian Rivamonte
11 for --

12 (Simultaneous speaking.)

13 MR. RIVAMONTE: I apologize, Your Honor.

14 Ian Rivamonte for the plaintiffs.

15 I can briefly summarize for the Court and
16 counsel where we are with this case, if I may.

17 THE COURT: Please.

18 MR. RIVAMONTE: Yes. So, Your Honor, there are
19 two trial defendants in this case, Johnson & Johnson and
20 Johnson & Johnson Consumer, Inc. As to Johnson &
21 Johnson Consumer, Inc., plaintiffs' claims against that
22 entity are automatically stayed by virtue of the
23 bankruptcy filing. All of its liabilities as it relates
24 to that entity are currently under bankruptcy
25 protection.

1 Now, for Johnson & Johnson, it's a bit of a
2 different story. Johnson & Johnson remains a solvent
3 and viable corporation. However, the bankruptcy court
4 issued a preliminary injunction that precludes
5 plaintiffs here and others like them from continuing to
6 prosecute or try their claims in state court against
7 Johnson & Johnson. That preliminary injunction
8 basically precludes plaintiffs from doing anything in
9 this case for a period of 120 days.

10 That time has now expired. However, Johnson &
11 Johnson is requesting that the bankruptcy court continue
12 that preliminary injunction for another 120 days or
13 maybe even longer. Now, the hearing on that particular
14 request is set for July 26th in New Jersey.

15 With all that said, the bankruptcy judge has
16 informed the parties involved in the bankruptcy that he
17 may be inclined to allow certain cases to go forward in
18 state court, and Doyle could be one of them. Now, there
19 is no guarantee that's going to happen, but, you know,
20 given that this case is completely worked up and I think
21 the parties are essentially ready for trial, that may be
22 one of the considerations that Judge Kaplan may take
23 into account.

24 With that said, Your Honor, because there is a
25 probability that the bankruptcy judge may lift the stay

1 as to Doyle, and it's still a probability. It's not
2 certain -- one of the questions that the judge may ask
3 during that hearing is: How soon can this case be set
4 for a trial assignment?

5 You know, if Your Honor can shed some light on
6 that, that'd be great. Otherwise, I think we should
7 have another status conference in 30 days, definitely
8 after the July 26th hearing, to see where we are.

9 THE COURT: Okay. September 13th?

10 MR. RIVAMONTE: Is that the trial date,
11 Your Honor?

12 THE COURT: Yes.

13 MR. RIVAMONTE: Okay. So it may be set for
14 trial on September 13th.

15 THE COURT: September 13th, September 20th.
16 Frankly, your odds are probably better September 20th or
17 September 27th.

18 MR. RIVAMONTE: Okay.

19 THE COURT: But we could set you on
20 September 13th.

21 Now, that may change if I don't set you today.
22 And if I set you -- I mean -- let me put it this way:
23 Like all the other courts, trial resources are in short
24 supply. You've been through the trial setting
25 assignment here at this court the last go-around in

1 April. The situation since April has not improved, and
2 in fact, it's gotten worse because right now, one of the
3 civil trial judges is doing rotations in criminal court
4 because of the criminal court backlog.

5 But as an example, every case that we had that
6 was set for trial this week went out. Every case that
7 we had set for trial last week went out. And we're
8 hoping that by September, we'll be back at full strength
9 on the civil jury side. So --

10 MS. MALIK: Your Honor, this is --

11 THE COURT: Yes.

12 MS. MALIK: I'm sorry, Your Honor. This is
13 Anne Malik for the defendants.

14 If we do come back then a month after the
15 hearing in the bankruptcy court and were to get assigned
16 a trial date then, would it be sort of just pushed out a
17 month maybe, like, October? Is that what we're
18 thinking?

19 THE COURT: That's quite likely.

20 MS. MALIK: Okay. Thank you very much,
21 Your Honor.

22 MR. RIVAMONTE: I have a question, Your Honor.

23 THE COURT: Yes.

24 MR. RIVAMONTE: So regardless of -- you know,
25 plaintiffs are not asking that the Court set a trial

1 yet. I just want to make the record clear. I don't
2 want to run afoul with any of the bankruptcy court's
3 orders.

4 But the September dates or possibly even the
5 October date you just mentioned, is that when we're
6 going to be on trial call, or is there going to be an
7 actual department that we're going to be assigned the
8 trial?

9 THE COURT: As you know from the last time that
10 you were here, that the assignment of a trial department
11 doesn't happen until the Thursday before your trial
12 date. And, of course, it depends on, you know, what
13 else is set and is going out and whether any of those
14 cases have priority.

15 You do have priority because you've been reset
16 from a prior setting in April, but you also, I believe,
17 have a fairly long estimate of time, and you don't --
18 unless there's a statutory priority, you know, such as
19 -- and I don't know if you're approaching the five-year
20 statute or where you stand on that, there may be reasons
21 why it could go out -- well, let me look at your case
22 number. You're a 2018 case, so you're getting close in
23 terms of priority.

24 MR. RIVAMONTE: Thank you, Your Honor.

25 THE COURT: Okay. So what we'll do then is,

1 we'll continue today's date to --

2 Do we have anything earlier than -- you know,
3 than September? Can we do anything in August?

4 THE CLERK: August? I think the earliest we
5 have is September 8th.

6 THE COURT: September 8th is the earliest date
7 we have.

8 MR. RIVAMONTE: For a further status
9 conference?

10 THE COURT: Yes, for a further status
11 conference, September 8th.

12 September 8th is the earliest date we can set
13 it. It's even earlier than on the trial setting
14 conference calendar. So I'm going to keep you on this
15 calendar September 8th, 10:00 a.m., this department.

16 MS. MALIK: Thank you, Your Honor.

17 MR. RIVAMONTE: Thank you, Your Honor.

18 THE COURT: Thank you.

19 (Proceedings concluded at 10:45 a.m.)
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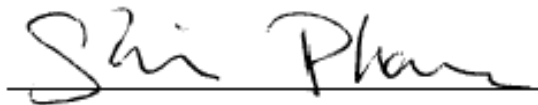
REPORTER'S CERTIFICATION

I, Sheila Pham, a Certified Shorthand Reporter, do
hereby certify:

That the foregoing proceedings were taken before me
at the time and place therein set forth, that the
proceedings were reported stenographically by me and
were thereafter transcribed under my direction and
supervision, and that the foregoing pages contain a
full, true and accurate record of all proceedings and
testimony to the best of my skill and ability.

In witness whereof, I have subscribed my name.

Dated: 0715/2022

A handwritten signature in cursive script, reading "Sheila Pham", written over a horizontal line.

Sheila Pham

CSR No. 13293